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12 Attorneys for Dr. Yorai Benzeevi and
HealthCare Conglomerate Associates, LLC

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF TULARE, VISALIA DIVISION

17 In Re SEARCH WARRANT NO. 013487
EXECUTED AUGUST 22, 2018 AT
JP Morgan Chase Bank

YORAI BENZEEVI.

Moving Party.

v.

SLIPPERY

22 | SUPERIOR COURT OF THE COUNTY
OF TULARE

23 || Respondent,

24
25
26
TULARE COUNTY DISTRICT
ATTORNEY'S OFFICE,
Real Party in Interest.

Case No.

**SUPPLEMENTAL DECLARATION OF
BEVAN A. DOWD IN SUPPORT OF DR.
YORAI BENZEEVI'S SURREPLY TO
MOTION FOR RETURN OF SEIZED
PROPERTY AND RELATED
EVIDENTIARY HEARING**

Date: November 9, 2018
Time: 2:00 p.m.
Dept.: 13
Judge: Hon. John P. Bianco

PUBLIC – Redacts Materials from Conditionally Sealed Record

SUPPLEMENTAL DOWD DECLARATION IN SUPPORT OF BENZEEVI'S SURREPLY TO MOTION
FOR RETURN OF SEIZED PROPERTY AND RELATED EVIDENTIARY HEARING
Case No. _____

1 I, BEVAN A. DOWD, declare:

2 1. I am an attorney, duly licensed to practice law in the State of California, and am an
3 associate with the law firm of Keker, Van Nest & Peters LLP, counsel for Dr. Yorai Benzeevi in
4 the above-referenced action. I have personal knowledge of the facts set forth herein, and if called
5 upon as a witness, I could testify to them competently under oath.

6 2. Attached hereto as **Exhibit 21** is a true and correct copy of Search Warrant No.
7 013487, executed August 22, 2018 at JPMorgan Chase Bank, and the redacted Statement of
8 Probable Cause in support thereof.

9 3. Attached hereto as **Exhibit 22** is a true and correct copy of an August 28, 2017
10 letter from Baker & Hostetler LLP to Celtic Leasing Corp.

11
12 I declare under penalty of perjury under the laws of the State of California that the
13 foregoing is true and correct, and that this declaration was executed on October 26, 2018, in San
14 Francisco, California.

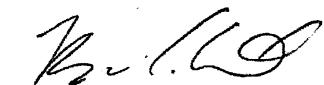
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17 By: 
18 BEVAN A. DOWD
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EXHIBIT 21

STATEMENT of PROBABLE CAUSE

TCDA BOI case 17-01-000407

I Attachment A

2

3 Items to be searched for

4 Items to be searched for shall include, but not be limited to, evidence as it
5 relates to this investigation and the allegations of embezzlement and
6 misappropriation of funds and/or property, California Penal Code section 503 –
7 515, a felony; misappropriation of public funds, California Penal Code section
8 424(a)1, a felony; procure an unlawful loan, California Penal Code section
9 424(a)2, a felony; false account, entry, or erasure, California Penal Code section
10 424(a)3, a felony; fraudulently altering accounts, California Penal Code section
11 424(a)4, a felony; unlawful willful refusal to pay, California Penal Code section
12 424(a)5, a felony; unlawful willful refusal to transfer public funds, California Penal
13 Code section 424(a)6, a felony; unlawful willful refusal to pay or transfer public
14 funds to an officer, California Penal Code section 424(a)7, a felony;
15 misappropriation of public funds, California Penal Code section 485, a felony;
16 theft of money/property under false pretense, California Penal Code section
17 487(a), a felony; money laundering, California Penal Code section 186.10, a
18 felony; conspiracy to defraud, California Penal Code section 182, a felony;
19 conflict of interest GC 1090; knowingly present false documents for financial
20 gain, California Penal Code section 532(a), a misdemeanor; knowingly influence
21 a government official for financial gain, Government Code section 87100, a
22 felony.

23

24 JP Morgan Chase bank is ordered to freeze all assets and account
25 activity for the following accounts:

26

27 1. Account # [REDACTED] (Tulare Asset Management, LLC)
28 2. Account # [REDACTED] (Healthcare Conglomerate Associates, LLC)
29 3. Account # [REDACTED] (Healthcare Conglomerate Associates, LLC)
30 4. Account # [REDACTED] (Yorai & Amy Benzevri)

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STATEMENT of PROBABLE CAUSE

TCDA BOI case 17-01-000407

1 If any proceeds, cash, negotiable instruments, or any money is on
2 deposit or present in the account(s) it may be frozen and held by the
3 Custodian of Records, JP Morgan Chase Bank, pursuant to PC 1409
4 (Property in Custody of Magistrate) and PC 1410 (Return to owner by court)
5 and held in an interest bearing account until those funds have been released to
6 the appropriate party as directed by the Tulare County Superior Court.
7 Notification of release will be through the investigating agency, the Tulare County
8 District Attorney's Office, Bureau of Investigations.

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STATEMENT of PROBABLE CAUSE

TCDA BOI case 17-01-000407

1 Statement of Probable Cause

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3 Introduction

4 Your Affiant, Rodney L. Klassen, having been sworn states that he has been
5 a sworn peace officer for more than 31 years and is currently employed as a
6 Criminal Investigator for the Tulare County District Attorney's Bureau of
7 Investigations. Your Affiant's current assignment is the investigation of cases
8 related to violent crimes, homicide, and special interest public integrity. Your
9 Affiant states that the following facts establish grounds for the issuance of a
10 search warrant and establish probable cause for believing said grounds exist;

11

12 During the course of my duties, Your Affiant has learned the following
13 information based on my discussions with named witnesses, by having read the
14 reports or talked with other Criminal Investigators of the Tulare County District
15 Attorney's Bureau of Investigations who have spoken directly with named
16 witnesses, by reviewing evidence recovered from previously served search
17 warrants and by speaking with investigators from the Tulare County District
18 Attorney's Bureau of Investigations and from the California Department of Justice
19 who have reviewed this evidence.

20

21 Over the past ten years, the ongoing financial, construction and governing
22 board issues surrounding the Tulare Regional Medical Center (TRMC) and the
23 Healthcare Conglomerate Associates (HCCA) has received significant local
24 media attention. It has been Your Affiant's experience that members of the
25 media will seek to obtain copies of search warrants from the court clerk's office
26 and therefore gain access to detailed information from the investigation which
27 they will then make available to the public. Your Affiant has already served a
28 search warrant related to this investigation, and within 24 hours of that service
29 local media sources sought to obtain copies of that search warrant and did make
30 public information from the portions of the warrant that were not sealed. As it
31 stands this investigation is still active and ongoing, and there is a potential for

STATEMENT of PROBABLE CAUSE

TCDA BOI case 17-01-000407

1 new witnesses and/or suspects to be identified and for the destruction or
2 disappation of assets as a result of information gained from this search warrant. If
3 the information in this statement of probable cause is made available to the
4 public, it could hinder an ongoing investigation. Therefore, in the interest of
5 justice, attached to this Search Warrant and Statement of Probable Cause is an
6 Order to Seal a portion of this document from public disclosure, pending further
7 order of the court.

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9 Refer to sealed portion of Statement of Probable Cause

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STATEMENT of PROBABLE CAUSE

TCDA BOI case 17-01-000407

1 SEALED PORTION OF STATEMENT OF PROBABLE CAUSE

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3 Summary

4 The Office of the District Attorney received complaints from citizens in the
5 City of Tulare regarding a perceived misappropriation of funds and/or property
6 belonging to the Tulare Regional Medical Center (TRMC). TRMC is a publicly
7 owned district hospital run by a publicly elected governing board and funded by
8 taxpayer revenues. Allegations were presented to this office that TRMC hospital
9 supplies, equipment, and TRMC hospital personnel have been shipped to and/or
10 outsourced to the Southern Inyo Hospital (SIH) located in Lone Pine, CA and that
11 TRMC has not received reimbursement for equipment, supplies or payroll
12 associated with this transfer and outsourcing. SIH is also a publicly owned
13 district hospital which had fallen into chapter 9 bankruptcy and was unable to
14 maintain operations on its own. Both TRMC and SIH were managed by the
15 same company, Healthcare Conglomerate Associates (HCCA).

16

17 Your Affiant is conducting an ongoing investigation into the Tulare Regional
18 Medical Center (TRMC) and Healthcare Conglomerate Associates LLC. (HCCA).
19 Beginning in January, 2014, the management company, HCCA, took over
20 management of TRMC under a contract with the Tulare Local Healthcare District
21 (TLHCD). In October, 2017, this management contract was severed by order of
22 the Honorable Judge Rene Lastreto II. After this contract was severed and
23 HCCA was removed, an interim management company, WIPFLi, was brought in
24 to manage TRMC.

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26 Investigation

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STATEMENT of PROBABLE CAUSE

TCDA BOI case 17-01-000407

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14 On January 26, 2018, Your Affiant served a search warrant on Celtic
15 Leasing Corp. to obtain records of the lease agreement/\$3 million loan Dr.
16 Benzeevi/HCCA made as described by Delbert Bryant in his deposition. Your
17 Affiant received records in response to this search warrant and conducted
18 interviews with representatives of Celtic Leasing. Your Affiant learned the
19 following information:

- 20 1. Celtic leasing initiated contact with Alan Germany in July, 2017, as part of
21 their standard operating procedure to procure business in their respective
22 market. During the first phone contact, Germany advised the sales
23 representative that the hospital was in the market for this transaction and
24 needed to close the deal very quickly, indicating he would do business
25 with Celtic Leasing as long as they were able to expedite the process.
- 26 2. Documents generated in the process of this contract were signed by Dr.
27 Benzeevi, Alan Germany and Delbert Bryant.
- 28 3. The contract allows for Celtic Leasing Corp. to take ownership of 77 items
29 of hospital equipment assets for a \$3 million purchase price in a
30 purchase/lease back agreement, in which the hospital district would make

STATEMENT of PROBABLE CAUSE

TCDA BOI case 17-01-000407

1 a monthly lease payment of more than \$80,000 for the three year life of
2 the contract.

3 4. The contract was finalized by August 31, 2017 and Celtic Leasing Corp.
4 wire transferred \$3 million into Dr. Benzeevi's Tulare Asset Management
5 Account at JP Morgan Chase bank. HCCA used TLHCD assets as
6 collateral for this transaction and represented to Celtic Leasing Corp. that
7 HCCA had authority to do this on behalf of TLHCD. Celtic Leasing Corp.
8 was not aware the Tulare Asset Management Account was owned by
9 HCCA and not by TLHCD.

10 5. The contract with Celtic was a loan to TRMC, however the money was
11 wired directly to an account owned by HCCA. Representatives of Celtic
12 would not have gone through with the transfer of funds had they known
13 the account was not a TRMC account.

14 6. Bruce Greene, the attorney who represented HCCA, provided a legal
15 opinion representing to Celtic that this loan contract was legal and
16 authorized.

17 *Investigator's note: The Celtic Leasing Corp. transaction originated and finalized
18 during the time period when Senovita Gutierrez had been duly elected to the TLHCD
19 board but Dr. Benzeevi and his attorney, Bruce Greene, were disrupting the process of
20 her being seated and refusing to recognize her as a legitimate board member. Board
21 members Kevin Northcraft and Mike Jamaica made it well known they were opposed to
22 Dr. Benzeevi obtaining any loans on behalf of TRMC. Of the \$3 million Dr. Benzeevi
23 received through the Celtic Leasing Corp. contract, \$499,727.93 was paid to his attorney
24 at Baker Hosteller, \$133,526.38 was wire transferred to Leasing Innovations Inc. as a
25 loan application fee for a \$7 million loan that Dr. Benzeevi/HCCA was in the process of
26 applying for and the remaining \$2.4 million was transferred between four JP Morgan
27 Chase Bank accounts, all of which are owned by Dr. Benzeevi. A cashiers check was
28 made out to Dr. Benzeevi for [REDACTED]. Your Affiant learned of this information
29 through the review of documents and bank records, deposition transcripts and witness
30 interviews.*

31

STATEMENT of PROBABLE CAUSE

TCDA BOI case 17-01-000407

1 Your Affiant reviewed numerous TLHCD board meeting minutes containing
2 HCCA's financial reports and interviewed current and former TLHCD board
3 members and learned the following information:

4 1. During 2013, according to former board members [REDACTED] and [REDACTED]
5 [REDACTED] TRMC was in financial distress and only days away from
6 insolvency, losing a million dollars a month.

7 2. Board members were encouraged by then CEO, Sean Bolouki, to affiliate
8 with a larger hospital network in order to survive. In December 2013,
9 HCCA was chosen over more experienced and financially superior suitors
10 to be the management company for TRMC.

11 3. In April 2014, the TLHCD board received a financial report from HCCA
12 which covered the first three months of management of TRMC. This
13 report indicated that TRMC made an \$84,000 profit, which translates to a
14 \$1 million turn around.

15 4. In 2016 Dr. Benzeevi pushed the TLHCD board to campaign for a \$65
16 million bond (Measure I) to fund completion of the TRMC tower project.
17 The board warns Dr. Benzeevi that Tulare citizens are angry and that this
18 measure will not pass. Dr. Benzeevi insists and they reluctantly go
19 forward in support of Measure I. When the measure does not pass, Dr.
20 Benzeevi tells [REDACTED] that he had a backup plan to obtain a HUD loan
21 as soon as he can show the hospital to be profitable for 36 months
22 straight.

23 5. From April, 2014 through April, 2017, HCCA continually reports TRMC to
24 show a profit for 36 months straight. Board members said the financial
25 reports they received from HCCA were always positive.

26 6. In June, 2017, HCCA requests the board's authorization to obtain loans on
27 behalf of TRMC and Dr. Benzeevi claims TRMC will run out of money if
28 authorization is not granted. The TLHCD board, in a split vote, passes
29 Resolution 851 and Resolution 862 authorizing HCCA to pursue loan
30 options for the district. Board members in favor of this resolution said their
31 understanding was that HCCA was to find and present loan options to the

STATEMENT of PROBABLE CAUSE

TCDA BOI case 17-01-000407

1 board for consideration and not to actually procure the loans without final
2 authorization of the board. These resolutions do not authorize any
3 borrowed funds to go directly to HCCA.

4 7. During the months of June through August, 2017, the TLHCD board is in
5 turmoil between members who are supportive of HCCA and those who are
6 in opposition.

7 8. In June, 2017, Dr. Kumar, a board member in support of HCCA, is
8 recalled from the board by the voters and Senovia Gutierrez is voted in as
9 a board member. This action shifts the board's majority in opposition to
10 HCCA. Board members Mike Jamaica and Kevin Northcraft, who were
11 seated to the board in January, 2017, were already in opposition of HCCA
12 and made it known they were against HCCA obtaining loans on behalf of
13 TRMC.

14 9. Jamaica and Northcraft intended to seat Gutierrez at the regularly
15 scheduled TLHCD board meeting on July 26, 2017. Board president,
16 Linda Wilbourn, received notification of Gutierrez' legitimate succession to
17 the board from the Tulare County Registrar of Voters on July 25, 2017.
18 This letter indicates that Gutierrez was to be recognized by the board at
19 the next regularly scheduled meeting. Citing the Brown Act, Wilbourn
20 believed she did not receive the letter in time to post the seating of
21 Gutierrez on the agenda for the July 26, 2017, board meeting. She sought
22 counsel from attorney Bruce Greene, who at the time represented both
23 HCCA and TLHCD, and Greene provided Wilbourn the legal opinion that
24 Gutierrez could not be recognized at the July 26, 2017, board meeting.

25 10. Board members Mike Jamaica and Kevin Northcraft call for a special
26 meeting of the board for July 27, 2017, to recognize Gutierrez and rescind
27 Resolution 851 and Resolution 852, in essence saying that HCCA was not
28 authorized to obtain loans on behalf of the board. Attorney Bruce Greene
29 instructs the other board members to not recognize any actions taken by
30 Northcraft and Jamaica stating that Gutierrez is not yet a legitimate board
31 member and they had no quorum. Greene never provides the option of

STATEMENT of PROBABLE CAUSE

TCDA BOI case 17-01-000407

1 calling a special meeting to include all seated board members for the
2 purpose of recognizing Gutierrez and he tells Wilbourn there is no
3 requirement to do so.

4 11. The next regularly scheduled board meeting is set for August 23, 2017 at
5 4:00 PM. Wilbourn submits a letter of resignation on the morning of
6 August 23, 2017, effective as of noon on that date. She sent this letter to
7 Bruce Greene who accepted the letter as is and sent an email to
8 Northcraft advising that Wilbourn resigned effective at noon and would not
9 be attending the meeting. Green also advises Northcraft that board
10 member Richard Torres was unable to attend this meeting and therefore
11 Northcraft did not have a quorum and the meeting would be canceled. An
12 hour later Greene sent another email to Northcraft saying he just spoke to
13 Wilbourn and she actually intended to resign effective at 8:00 AM on
14 August 24, the following morning. Greene advises Northcraft that
15 Wilbourn is still a board member, however she would not be attending the
16 meeting which would still be canceled due to no quorum. Northcraft,
17 Jamaica and Gutierrez hold the board meeting and again announce that
18 HCCA is not authorized to obtain loans on behalf of TRMC.

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

26 13. In August, 2017, the TLHCD board declares bankruptcy and moves to
27 sever the contract with HCCA.

28 [REDACTED]

29 [REDACTED]

30 [REDACTED]

STATEMENT of PROBABLE CAUSE

TCDA BOI case 17-01-000407

1. Tulare Asset Management LLC (account owned by HCCA) received a \$3
2 million deposit into JPMorgan Chase Bank account # [REDACTED] via wire
3 transfer on 8/31/2017 from Celtic Leasing Corp.
4. On 9/11/2017 \$499,727.93 was withdrawn from JPMorgan Chase Bank
5 account # [REDACTED]
6. On 9/11/2017 \$499,727.93 was deposited into JPMorgan Chase Bank
7 account # [REDACTED]
8. On 9/13/2017 [REDACTED] was transferred from JPMorgan Chase Bank
9 account # [REDACTED] to JPMorgan Chase Bank account # [REDACTED]
10 (Healthcare Conglomerate Associates LLC).
11. On 9/13/2017 check #1400 in the amount of \$499,727.93 was written from
12 JPMorgan Chase Bank account # [REDACTED] and was made payable to
13 Baker Hostetler (the law firm that represented Dr. Benzeevi and TLHCD at
14 the time).
15. On 9/18/2017 check #1401 in the amount of \$ [REDACTED] was written from
16 JPMorgan Chase Bank account # [REDACTED] and was made payable to
17 Yorai Benzeevi.
18. On 9/18/2017 check #1401 in the amount of [REDACTED] was deposited
19 into the personal bank account of Yorai and Amy Benzeevi in Chase Bank
20 account # [REDACTED]
21. Each of the accounts listed had funds in the account prior to money from
22 the Celtic loan being transferred in. Using acceptable accounting
23 practices, once the pre-existing funds are removed from the account the
24 remaining funds are considered to be part of the illegal funds. On
25 9/29/2017 \$443,090.22 was transferred from Chase Bank account #
26 [REDACTED] to Chase Bank account # [REDACTED] Based on CDOJ's
27 findings, \$90,000.00 of these funds are part of the illegally obtained Celtic
28 loan money.

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STATEMENT of PROBABLE CAUSE

TCDA BOI case 17-01-000407

1 [REDACTED]
2 [REDACTED]
3 [REDACTED] This contract was negotiated fraudulently
4 with intent to misrepresent authorization and circumstances to Celtic Leasing.
5 Due to this misrepresentation Celtic Leasing transferred the funds of this contract
6 into an HCCA/Dr. Benzeevi owned bank account which they would not have
7 done otherwise. None of the funds from this transaction went to the benefit of
8 TRMC and instead was used as a means of payment of legal fees for HCCA and
9 into the personal account of Dr. Benzeevi.

10
11 Training and Experience
12 Your affiant, for this portion of the affidavit, will describe, in the first person,
13 the knowledge I possess pertinent to this case and say, that I am a duly qualified
14 Investigator with the Tulare County District Attorney's Office and have been a
15 sworn peace officer for more than 31 years. I am currently assigned to the
16 Complex Case Unit of the District Attorney's Bureau of Investigations. I was
17 previously assigned to the Tulare County Sheriff's Violent Crime Investigations
18 Unit for more than four years and have been a detective for more than 12 years.
19

20 My current assignment involves the investigation of reported crimes of
21 violence and homicide and investigations related to public integrity. I have
22 received specialized training in criminal investigations, and specifically, homicide
23 and officer-involved shooting investigations. I have spoken with experts in these
24 investigative fields, and I have attended seminars on these subjects.
25

26 During this assignment and in connection with previous assignments, I have
27 been involved in numerous homicide, violent crime and officer-involved shooting
28 investigations and I have conducted interviews with victims, suspects, and
29 witnesses during those investigations. I have also maintained and processed
30 crime scenes and collected and logged evidence during those investigations. I

STATEMENT of PROBABLE CAUSE

TCDA BOI case 17-01-000407

- 1 have collected valuable information from cell phones and electronic devices
- 2 which aided in these investigations.

3

4 Regarding this investigation, I have consulted with agents from the California
5 Department of Justice and the Federal Bureau of Investigation and investigators
6 and prosecutors from the Los Angeles County District Attorney's Office and have
7 attended seminars on the subject of financial crimes.

8

9 I am aware that Dr. Benzeevi has bank accounts with JP Morgan Chase
10 Bank and these accounts are listed under his name or the names of the
11 companies he owns which are Healthcare Conglomerates Associates, LLC
12 (HCCA), Tulare Asset Management and Vi Healthcare Finance. I am also aware
13 that Dr. Benzeevi has a Swiss bank account which may be an active open
14 account at this time.

15

16 I am aware that Dr. Benzeevi obtained a \$3 million dollar loan from Celtic
17 Leasing in a purchase/lease agreement under false pretenses in that this
18 agreement was against TLHCD/TRMC assets and without the TLHCD board's
19 knowledge or authorization. I am further aware that the funds from this
20 agreement went directly into Dr. Benzeevi's bank accounts and did not benefit
21 the hospital in any manner.

22

23 Your Affiant believes the bank accounts mentioned in Attachment A contain
24 money that was illegally obtained and therefore these assets should be frozen for
25 the purpose of restitution and until further order of the court.

26

27 Request to Search, Authorization

28 Based on Your Affiant's training and experience I am of the opinion that the
29 locations described on the Face Page of this search warrant may contain
30 evidence directly related to this investigation.

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STATEMENT of PROBABLE CAUSE

TCDA BOI case 17-01-000407

1 Your Affiant prays that the court will issue a search warrant/order enabling
2 Your Affiant and peace officers to freeze the bank accounts described in
3 Attachment A. Your affiant states that the facts in support of the issuance of
4 this search warrant are contained within this statement of probable cause, and
5 the foregoing is true and correct, except to those matters stated upon information
6 and belief, and to those matters, Your Affiant believes them to be true.

7

8 Said evidence would be utilized to prove these crimes in a criminal court.
9 Your affiant believes that the evidence exists and that it is currently present at the
10 described location and lawfully seizable pursuant to Penal Code Section 1524,
11 as indicated, and is now located at locations set forth herein. Wherefore, I
12 request this Search Warrant be issued.

13

14

15 _____, 22nd day of August, 2018, at _____ AM/PM

16 (Signature of Affiant)

17

18

19 _____, 22nd day of August, 2018, at _____ AM/PM

20 (Signature of Magistrate)

21

22

END OF

SEALED PORTION OF STATEMENT OF PROBABLE CAUSE

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